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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Deirdre Buckhalter-Barr, an individual

Plaintiff,

vs.

Homegoods, Inc., a foreign corporation; Doe
Individuals 1-10; Doe Employees 11-20; and Roe
Corporations 21-30,

Defendant.

Case No.: 2:22-cv-161

**Homegoods, Inc.'s Petition for
Removal**

Homegoods, Inc. petitions to remove this case to the United States District Court for the District of Nevada from the Eighth Judicial District Court for the State of Nevada. This petition for removal is signed per Rule 11.

Removal is appropriate per 28 U.S.C. § 1441 because diversity jurisdiction is present per 28 U.S.C. 1332. Plaintiff alleges she is a Nevadan.¹ Homegoods, Inc. is a Delaware entity with its principal place of business in Massachusetts. Plaintiff alleges injury from an incident that occurred on January 6, 2020.² As to the amount in controversy, on January 25, 2022 Plaintiff filed a motion in state court to exempt his case from a program intended for cases where the amount in controversy is \$50,000 or less. Plaintiff asserted exemption was warranted because Plaintiff has medical bills in excess of \$51,651.72.³

¹ ECF No. 1-3 at ¶ 1.

² *Id.* at ¶ 9.

³ ECF No. 1-6.

1 In prior cases in this district, the types of injuries and damages asserted here have indicated
 2 an amount in controversy exceeding \$75,000. In *Doelamo v. Karl-Heinz* the defendant argued
 3 more than \$75,000 was in dispute because plaintiff alleged “approximately \$22,000 in past
 4 medical damages, and he argues that it is more likely than not that if Plaintiff is successful on his
 5 claims for lost wages, future medical damages for his ‘permanent’ condition(s), past and future
 6 pain and suffering, and attorney’s fees, he will recover more than \$75,000 total in the case.”⁴ This
 7 was sufficient to create subject matter jurisdiction.

8 In the Court’s experience, a personal injury claim including \$22,000 in past medical
 9 bills will normally include a plea to a jury for several times this amount in future
 10 medical bills, particularly where one alleges a permanent condition related to the
 11 injury. The Court can conclude this without even considering pain and suffering, lost
 12 wages, or attorney’s fees. Considering those measures of damages and fees, as well, it
 is nearly certain that Plaintiff in reality seeks more than \$75,000. The Court has little
 doubt that Plaintiff will ask the jury to award him more than \$75,000, whether in this
 Court or in state court.

13 In *Canonico v. Seals* the plaintiff conceded at least \$50,000 was in dispute due to past and
 14 future medical treatment and property damage.⁵ “The remaining question is whether more than
 15 \$25,000 is at stake in the form of pain and suffering, loss of earning capacity, loss of enjoyment of
 16 life, compensatory damages, attorney’s fees, and costs. It almost certainly is.”

17 In *Perreault v. Wal-Mart Stores, Inc.* the complaint sought an amount in excess of
 18 \$10,000.00, as well as special damages, reasonable attorney’s fees, costs, and other appropriate
 19 relief.⁶ The plaintiff provided an itemized list of her then-current medical costs, totaling
 20 \$38,769.60 and noted that her medical bills were continuing to “trickle in.” The amount in
 21 controversy threshold was satisfied as “it appears likely that plaintiff’s total requested damages
 22 exceed \$75,000.00.”

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27 ⁴ No. 2:14-cv-339, 2014 U.S. Dist. LEXIS 72664 (D. Nev. May 27, 2014).

28 ⁵ No. 2:13-cv-316, 2013 U.S. Dist. LEXIS 60047 (D. Nev. Apr. 25, 2013).

⁶ No. 2:16-cv-809, 2016 U.S. Dist. LEXIS 115591 (D. Nev. Aug. 29, 2016).

Given these facts, diversity of citizenship is present, the amount in controversy exceeds \$75,000, and the removal petition was timely filed.

DATED this 28th day of January, 2022.



BY: /s/ Michael Lowry

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Certificate of Service

On January 28, 2022, I served **Homegoods, Inc.'s Petition for Removal** as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☒ via electronic means by operation of the Court's electronic filing system, upon each party in this case who is registered as an electronic case filing user with the Clerk;

COGBURN LAW 2580 St. Rose Parkway, Suite 330 Henderson, NV 89074 Attorneys for Plaintiff	
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BY: Michael Lowry